

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

COMMUNITY ASSOCIATION FOR  
RESTORATION OF THE  
ENVIRONMENT, INC., a Washington  
Non-Profit Corporation; and CENTER  
FOR FOOD SAFETY, INC., a  
Washington, D.C. Non-Profit  
Corporation,

Plaintiffs,

v.

COW PALACE, LLC, a Washington  
Limited Liability Company, et al.,

Defendants.

CASE NO: 13-CV-3016-TOR

ORDER GRANTING STIPULATED  
MOTION TO DISMISS PLAINTIFFS'  
RCRA CLAIMS BASED ON  
PRESENCE OF "OTHER  
CONTAMINANTS"

BEFORE THE COURT is the parties' Stipulated Motion to Dismiss Certain  
of Plaintiffs' RCRA Claims Based on Presence of "Other Contaminants" (ECF No.  
188). This matter was submitted for consideration without oral argument. The  
Court has reviewed the motion and the record and files herein, and is fully  
informed. For good cause shown, the Court grants the parties' motion.

ORDER GRANTING STIPULATED MOTION TO DISMISS CERTAIN  
CLAIMS ~ 1

1           **Accordingly, IT IS HEREBY ORDERED:**

2           1.     The parties' Stipulated Motion to Dismiss Certain of Plaintiffs'  
3 RCRA Claims Based on Presence of "Other Contaminants" (ECF No. 188), is  
4 **GRANTED.**

5           2.     To the extent Plaintiffs' Third Amended Complaint can be read to  
6 assert RCRA claims for imminent and substantial endangerment to human health  
7 against all Defendants that may have been premised on the alleged presence of  
8 "other contaminants" in the groundwater such claims are dismissed with prejudice.  
9 Specifically, any RCRA imminent and substantial endangerment to human health  
10 claims based on the alleged presence in groundwater of inorganic or organic  
11 elements, steroids, pathogens, pharmaceuticals, hormones or antibiotics, are  
12 dismissed with prejudice.

13          3.     Notwithstanding the foregoing, Plaintiffs may refer to any admissible  
14 evidence showing the presence of "Other Contaminants" at the Defendants'  
15 properties and/or the alleged presence of "Other Contaminants" in support of their  
16 allegation that Defendants caused or contributed to the nitrate and phosphorus  
17 contamination of the environment, including that nitrate contamination may pose  
18 an imminent and substantial endangerment to human health and the environment,  
19 that phosphorus contamination may pose an imminent and substantial  
20

1 endangerment to the environment, and that Defendants' manure practices  
2 constitute illegal open dumping.

3 The District Court Executive is hereby directed to enter this Order and  
4 furnish copies to counsel.

5 **DATED** November 25, 2014.



*Thomas O. Rice*  
THOMAS O. RICE  
United States District Judge